

SENATE BILL 3044

By Berke

AN ACT to amend Tennessee Code Annotated, Title 68,
Chapter 221, to enact the "Drinking Water Access
and Resources Planning Act of 2008".

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 68, Chapter 221, is amended by adding the following language as a new part:

Section 68-221-1401.

This part shall be known and shall be cited as the "Drinking Water Access and Resources Planning Act of 2008".

Section 68-221-1402.

The purpose of this part is to establish a systematic planning process for the long-range management of water resources in the state of Tennessee to:

- (1) Provide drinking water to the citizens of Tennessee who do not presently have access to a public water supply;
- (2) Further the purpose of the Tennessee Safe Drinking Water Act of 1983 which provides that each citizen of Tennessee has a right to both an adequate quantity and quality of drinking water;
- (3) Provide for the economic extensions of the public water supply to underserved and unserved areas of Tennessee which are located primarily in rural areas;
- (4) Increase the cooperation and coordination by public water systems to make water line extensions to underserved and unserved areas in Tennessee;
- (5) Maximize the sources of water supply in Tennessee for use by public water systems for drinking water; and

(6) Efficiently use all federal, state and local funding available to make drinking water available to the citizens of the state of Tennessee.

Section 68-221-1403.

As used in this part, unless the context otherwise requires:

(1) "Drinking water" means any public water supply which the Tennessee department of environment and conservation has approved for human consumption and which is used primarily for domestic use and consumption;

(2) "Person" means any individual or individuals and any and all firms, partnerships, associations, limited liability companies, public or private institutions, public or private corporations, counties, municipalities or political subdivisions and state and federal agencies, organized or existing under the laws of this or any other state or country;

(3) "Public water system" means any waterworks system as defined in subdivision (5), whether privately or publicly owned, where water is furnished to any community, collection or number of individuals for a fee or charge or any other waterworks system which, on account of the persons who are or may be affected by the quality of the water, is classified as a public water supply by the Tennessee department of environment and conservation;

(4) "Water system improvement projects" mean the construction or acquisition of sources of water supply and all structures, facilities and appurtenances used for the collection, treatment, storage and distribution of water delivered to consumers; and

(5) "Waterworks system" means the source of supply and all structures and appurtenances used for the collection, treatment, storage and distribution of water delivered to the consumers.

Section 68-221-1404.

(a) By December 31, 2008, a water management planning council shall be established in each county in the state of Tennessee. Two (2) or more counties may form a multicounty water management planning council.

(b) A water management planning council for a county shall be comprised of the following members:

(1) The county mayor or the mayor's designee;

(2) One (1) representative from each public water system which provides or is authorized to provide water service in the county;

(3) One (1) representative from each municipality in the county which does not operate a public water system; and

(4) In the event number of persons on the water management planning council is an even number pursuant to subdivisions (b)(1) - (3), the county mayor may appoint one (1) additional member to the water management planning council.

(c) The county mayors of each county or their designees shall be members of a multicounty water management planning council. In the event the number of persons on a multicounty water management planning council is an even number pursuant to subdivisions (b)(1) - (3), the county mayors shall mutually agree upon one (1) additional member to serve on the multicounty water management planning council.

(d) The chair of a water management planning council shall be elected by the members of the council at its first meeting.

(e) Members of water management planning councils shall serve without pay but may be reimbursed by the counties, municipalities or appointing public water systems for

reasonable expenses incurred to carry out the work of the water management planning councils.

(f) Each water management planning council shall determine the date, time and location of its meetings.

(g) Meetings of the water management planning councils are subject to the Tennessee open meetings laws.

Section 68-221-1405.

(a) By December 31, 2009, each water management planning council shall develop maps of uniform scale to accurately and clearly show:

(1) The existing water lines, service areas and geographic boundaries, if applicable, of the public water systems in each county.

(2) The unserved areas within each county without a public water supply.

(3) The areas in each county which are underserved by a public water supply; and

(4) The public water system which should make economic water line extensions to provide drinking water to underserved and unserved areas within each county.

(b) By December 31, 2009, each water management planning council shall develop a written long range plan and strategy to deliver drinking water as needed to underserved and unserved areas of the county. The plan shall include a water needs forecast for the county for dates five (5), ten (10), fifteen (15) and twenty (20) years after 2009. The plan shall include a description of the water system improvement projects needed to deliver drinking water to underserved and unserved areas of the county.

(c) By December 31, 2009, and annually thereafter, each water management planning council shall review its long range plan and shall prioritize the water system

improvement projects in the council's long range plan to provide drinking water to underserved and unserved areas within each county. The council shall consider the following factors, among other factors, in prioritizing the water system improvement projects in the council's long range plan for underserved and unserved areas within each county:

(1) The current and potential customer based that would benefit from water service;

(2) The adequacy, cost-effectiveness and dependability of water sources, water treatment capacity and distribution lines that may be used to provide water service; and

(3) The potential to eliminate or prevent duplication of water distribution lines and facilities which may be used to provide water service.

(d) Each water management planning council shall submit its maps, long range plan and annual prioritization reports to the utility management review board and the water and wastewater financing board. A copy of the maps prepared under subsection (a) shall be submitted to the division of water supply of the Tennessee department of environment and conservation.

Section 68-221-1406.

The public water systems in each county or counties shall finance the development of the maps, long range plan and annual prioritization reports set forth in § 68-221-1405, in conjunction with any funds appropriated by the general assembly to be used by the utility management review board and the water and wastewater financing board to assist in the water management planning in this part. The comptroller of the treasury may contract with the Tennessee association of utility districts and/or the municipal technical advisory service to provide such assistance on behalf of the utility

management review board and the water and wastewater financing board. Water management planning councils may accept and expend donations, grants and payments from persons other than public water systems.

Section 68-221-1407.

(a) The drinking water access and resources fund, referred to in this part as "the fund", is established as a separate account in the state treasury and shall be jointly administered by the utility management review board and water and wastewater financing board under the authority of comptroller of the treasury.

(b) The fund shall be a dedicated fund, and all moneys in the fund shall be dedicated solely to providing financial assistance to public water systems for the construction or acquisition of water system improvement projects to accomplish the purposes set forth in this part.

(c) The financial assistance that may be provided to public water systems by the fund shall be limited to:

(1) Making loans, on the condition that the loans are made at or below market interest rates, including interest free loans, at terms not to exceed thirty (30) years and that the fund will be credited with all payments of principal and interest on all loans;

(2) Making grants; and

(3) Purchasing or guaranteeing, or purchasing insurance for, local or state obligations when the action would improve credit market access or reduce interest rates.

(d) The fund shall be established, maintained, and credited with repayments, and the fund balance shall be available in perpetuity for its stated purposes.

(e) The utility management review board and water and wastewater financing board shall advise public water systems of the availability of the fund and how moneys may be obtained from the fund.

(f) The utility management review board and water and wastewater financing board may enter into any necessary or required agreements with federal or state agencies or persons to carry out the provisions of this section. All state agencies shall cooperate with the utility management review board and water and wastewater financing board and shall share information with them as appropriate to accomplish the purposes set out in this part.

(g) The utility management review board and water and wastewater financing board may establish, adopt and promulgate, in accordance with Uniform Administrative Procedures Act, compiled in title 4. chapter 5, rules and regulations which they deem necessary for the proper administration of the fund to accomplish the purposes of this section.

(h) The general assembly may appropriate funds to the comptroller of the treasury to enable the utility management review board and water and wastewater financing board to carry out its functions under this section.

(i) The utility management review board shall include its activities under this part in its annual report to the governor and general assembly required by § 7-82-705. The water and wastewater financing board shall submit an annual report to the governor and general assembly of its activities under this part.

Section 68-221-1408.

(a) Upon the submission by the water management planning council for a county of the council's maps, long range plan and annual prioritization reports to the utility management review board and the water and wastewater financing board, each county,

municipality, utility district, water and wastewater treatment authority or other public water system within the county shall receive an additional five (5) points on a scale of one hundred (100) points or a comparable percentage increase as determined by the commissioner of economic and community development in any evaluation formula for the distribution of grants from the department of economic and community development for the:

- (1) Community development block grants; and
- (2) Tennessee FastTrack infrastructure development program.

(b) Effective January 1, 2010, the following grant programs shall be unavailable in those counties, municipalities, utility districts, water and wastewater treatment authorities or other public water systems where the water management planning council for a county has failed to submit the council's maps, long range plan and annual prioritization reports to the utility management review board and the water and wastewater financing board, and shall remain unavailable until such submission:

- (1) Community development block grants; and
- (2) Tennessee FastTrack infrastructure development program.

Section 68-221-1409.

Nothing in this part shall be construed to affect the exclusive or prior right of a county, municipality, utility district or other public water system to provide water service to a geographic territory under state or federal law.

SECTION 2. This act shall take effect July 1, 2008, the public welfare requiring it.